## UNITED STATES BANKRUPTCY COURT EASTERN DISTRICT OF PENNSYLVANIA

In re: : Chapter 7

UNIVERSAL MARKETING, INC.,

Debtor. : Bky. No. 09-15404 ELF

CHARLES R. GOLDSTEIN, Chapter 7 Trustee : for the Estate of Universal Marketing, Inc., et al., :

Plaintiff,

v.

BRT, INC.,

Defendant. : Adv. No. 11-0569

## ORDER

**AND NOW**, upon consideration of the Defendant's Motion to Dismiss the Complaint ("the Motion"), the response thereto filed by Plaintiff Charles R. Goldstein, Trustee ("the Trustee"), and for the reasons stated in the accompanying Memorandum,

It is hereby **ORDERED** that:

- 1. The Motion is **GRANTED IN PART AND DENIED IN PART**.
- 2. The Motion is **GRANTED** as to **Counts II, III and IV** and those Counts of the Complaint are **DISMISSED**.
- 3. The Motion is **DENIED** as to **Counts I, V, VI and VII**.
- 4. The Trustee is **GRANTED LEAVE** to file an Amended Complaint **on or before November**

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17, 2011.

- 5. On or before November 17, 2011, the Trustee shall file a memorandum of law setting forth authority supporting the legal sufficiency of Count VII, after which the court will sua sponte determine whether Count VII should be dismissed,
- 6. If the Trustee does not file an Amended Complaint pursuant to Paragraph 5 or files an Amended Complaint that does not assert the claim presently denoted as Count VII in the original Complaint, the Trustee need not file the memorandum of law required by Paragraph 5.

**Date:** October 27, 2011

ERIC L. FRANK U.S. BANKRUPTCY JUDGE